

REMARKS

Claims 1-40 are currently pending in the application. Claims 15-16, 20, 22 and 37-40 have been canceled. Claims 1-12, 14 and 17-35 have been amended. New claims 41-55 have been added. No new matter is added by the amendments or new claims.

Election/Restrictions

Applicants confirm the election made 4/21/06 to prosecute the inventions of Group I, claims 1-36 and have canceled withdrawn claims 37-40.

Drawings

The drawings have been objected to because the limitations “aperture,” “mouth of the recess,” “first shape” and “second shape” are required by the Examiner to be shown in the drawings. Applicants have canceled the claims that recited these limitations. Accordingly, Applicants respectfully request that the objection to the drawings be withdrawn.

Claim Objections

Claim 8 has been objected to as being of improper dependent format for failing to further limit claim 7. Applicants have amended claim 8 so it further limits the location of the window.

Claim 15 has been canceled; accordingly, the objection to claim 15 has been rendered moot.

Claim 33 has been objected to because it contains a backslash at the end of the claim. Applicants have amended claim 33 to correct this typographical error.

Accordingly, Applicants respectfully request that the objections to the claims be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, second paragraph

Claims 10, 15, 16, 18 and 20 have been rejected under 35 U.S.C. § 112, second paragraph.

Specifically, claim 10 has been rejected because the phrase “first and second filters can be exchanged between a first configuration....” is allegedly unclear. The plain meaning of the term “exchange” is “the act or process of substituting one thing for another.”¹ Thus, the phrase

¹ <http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=exchange>

means that the first and second filters may be in one configuration, or substituted for each other in another configuration.

Claims 15, 16 and 20 have been rejected for allegedly being unclear. However, the cancellation of these claims renders these rejections moot.

Claim 18 has been rejected because the language “shaped to adapt the image” is allegedly unclear. Applicants’ amendment to claim 18 is believed to render the rejection moot.

Reconsideration and withdrawal of the rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 2, 15-21, 23-32, 35 and 36 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Catt et al. (U.S. Patent No. 6,235,241). Catt does not disclose assay readers for detecting luminescent labels, and thus, luminescent emission. Thus, it does not teach each and every limitation of claim 1 and its dependent claims.

Reconsideration and withdrawal of the rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 3-14, 22 and 33 have been rejected under 35 U.S.C. § 103(a) as being obvious over Catt et al. (U.S. Patent No. 6,235,241) in view of Hubscher et al. (U.S. Patent No. 6,824,975). As discussed above, Catt does not disclose assay readers for detecting luminescent labels, and thus, luminescent emission. Hubscher is relied on by the Examiner as teaching a lateral flow assay device comprising a filter, different wavelengths of the emission signal and fluorescent labels.

There is no motivation provided in Hubscher to incorporate the disclosed device into the device disclosed in Catt. Further, there is no motivation or suggestion provided in Catt to incorporate the disclosed device into the device disclosed in Hubscher. Further, one of skill in the art would not expect that the Hubscher device could be successfully modified into the Catt device. Thus, there is no motivation to combine Catt and Hubscher, and no reasonable expectation of success in so doing.

Claim 34 has been rejected under 35 U.S.C. § 103(a) as being obvious over Catt et al. (U.S. Patent No. 6,235,241) in view of Greenquist et al. (U.S. Patent No. 6,824,975). As discussed above, Catt does not disclose assay readers for detecting luminescent labels, and thus,

luminescent emission. Greenquist does not remedy this deficiency. Thus, the combined references do not produce the claimed invention.

Reconsideration and withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

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Dated: December 12, 2006